

TERMS OF BUSINESS – SUPPLY OF EQUIPMENT

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in condition 28 apply in these conditions.

2. APPLICATION OF CONDITIONS

- 2.1 These conditions shall:

2.1.1 apply to and be incorporated in the Contract; and

2.1.2 prevail over any inconsistent terms or conditions contained in or referred to in the Customer's purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.

- 2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on PAV unless in writing and signed by a duly authorised representative of PAV.

3. BASIS OF SALE

- 3.1 Any quotation is valid for a period of 30 days only, and PAV may withdraw it at any time by notice to the Customer.

- 3.2 Each order or acceptance of a quotation for a System by the Customer shall be deemed to be an offer by the Customer subject to these conditions. The Customer shall ensure that its order is complete and accurate.

- 3.3 A binding contract shall not come into existence between PAV and the Customer unless and until PAV issues a written order acknowledgement to the Customer, or PAV delivers the System to the Customer (whichever occurs earlier).

- 3.4 No order which has been acknowledged by PAV may be cancelled by the Customer, except with the agreement in writing of PAV and provided that the Customer indemnifies PAV in full against all loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred by PAV as a result of cancellation.

4. SUPPLY OF THE SYSTEM

- 4.1 PAV shall supply and the Customer shall purchase the System in accordance with these conditions.

- 4.2 PAV shall supply and install the System in accordance with the Specification.

- 4.3 PAV agrees:
- 4.3.1 to deliver the System at the Site;
 - 4.3.2 to install the System at the Site;
 - 4.3.3 to carry out, in conjunction with the Customer, the Handover;
 - 4.3.4 to provide the System Fully Commissioned in accordance with the Contract Timetable.

5. SPECIFICATION

- 5.1 The quantity and description of the System shall be as set out in the Quotation.
- 5.2 All samples, drawings, descriptive matter, specifications and advertising issued by PAV, and any descriptions or illustrations contained in PAV's catalogues or brochures are issued or published for illustrative purposes only and they do not form part of the Contract.
- 5.3 Except where expressly guaranteed by PAV in writing, weights and dimensions quoted by PAV are approximations only.
- 5.4 PAV reserves the right (but does not assume the obligation) to make any changes to the Specification which are required to conform with any applicable legislation or which do not materially affect their quality or performance.
- 5.5 The Customer shall indemnify PAV against all Costs suffered or incurred by PAV in connection with any claim made against PAV for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with PAV's use of any specifications, drawings or other intellectual property provided to PAV by the Customer. This condition 5.5 shall survive termination of the Contract.
- 5.6 Except where expressly guaranteed by PAV in writing, performance figures supplied by PAV are by way of information only and whilst they may be based on experience obtained during tests, any such figures do not constitute a representation or contractual term that similar or equivalent results will be obtained in respect of any goods, system or equipment supplied under the Contract.

6. CONTRACT TIMETABLE

- 6.1 Both parties shall perform their obligations under the Contract in accordance with the Contract Timetable.
- 6.2 PAV shall complete the supply and installation of the System in each stage of the Contract Timetable by the date specified in the Contract Timetable, subject to condition 6.3.

- 6.3 PAV shall be given an extension of the timetable of any one or more of the Contract Milestones if one of more of the following events occurs:
- 6.3.1 a variation to the Specification is made at the Customer's request;
 - 6.3.2 a force majeure event occurs as described in condition 20;
 - 6.3.3 a delay is caused in whole or in part by an action or omission of the Customer or its employees, agents or third-party contractors;
 - 6.3.4 PAV and the Customer or its employees, agents or third-party contractors agree to vary the Contract Timetable;
 - 6.3.5 PAV considers it reasonably necessary to vary the Contract Timetable; or
 - 6.3.6 the Customer fails to make any payment when due and PAV delays the Contract Timetable in accordance with condition 13.4.
- 6.4 If PAV is entitled to an extension of time under condition 6.3, it shall issue a Change Notice confirming the revised Contract Timetable. If the Customer has not objected in writing to the Change Notice within 5 days of PAV issuing the Change Notice, the Customer shall be deemed to have accepted the revised Contract Timetable.
- 6.5 If the Customer objects to the Change Notice, PAV and the Customer shall use best endeavours to agree in writing, signed by both parties, what extension of time is reasonable in the circumstances. The Contract Timetable shall be deemed amended accordingly.
- 6.6 On completion of each Contract Milestone, the Customer will sign a Milestone Certificate confirming that such Contract Milestone has been completed.

7. CHANGE CONTROL

- 7.1 If either party wishes to change the scope of the System, it shall submit details of the requested change to the other in writing.
- 7.2 If either party requests a change to the scope of the System, PAV shall, within a reasonable time, provide a written estimate to the Customer of:
- 7.2.1 the likely time required to implement the change;
 - 7.2.2 any necessary variations to the Price arising from the change;
 - 7.2.3 the likely effect of the change on the Contract Timetable; and
 - 7.2.4 any other impact of the change on this agreement.

- 7.3 If the Customer wishes PAV to proceed with the change, PAV has no obligation to do so unless and until the parties have agreed the necessary variations to the Price, the Specification and the Contract Timetable. If PAV agrees to the change, it shall issue a Change Notice confirming the revised Price, Specification and Contract Timetable. If the Customer has not objected in writing to the Change Notice within 5 days of PAV issuing the Change Notice, the Customer shall be deemed to have accepted the revised Price, Specification and Contract Timetable.
- 7.4 PAV will not accept any change to the scope or specification of the System which results in the Price being more than 50% less than the Price set out in the Quotation.

8. DELIVERY AND INSTALLATION

- 8.1 PAV shall use reasonable endeavours to deliver the System in accordance with the Contract Timetable but the time of delivery shall not be of the essence. PAV shall not be liable for any for any Costs suffered by the Customer as a result of delayed Delivery.
- 8.2 Delivery of the System shall be completed when PAV places the System at the Customer's disposal at the Delivery Location.
- 8.3 PAV shall supply to the Customer, within a reasonable time before the Delivery Date, such information and assistance as may be necessary to enable the Customer to prepare the Site for the installation of the System.
- 8.4 The Customer shall, at its own expense, prepare the Site in accordance with the information provided by PAV in advance of the Delivery Date. PAV shall in no circumstances be liable for remedying any deficiency in the Site preparation that is discovered after that date.
- 8.5 PAV shall complete installation of the System in accordance with the Contract Timetable.
- 8.6 If any delivery or installation of the System is delayed at the request of the Customer or its employees, agents or third-party contractors, or because of any of their acts or omissions:
- 8.6.1 the Contract Timetable shall be amended to take account of such delay in accordance with condition 6.5. If PAV can demonstrate that the delay has resulted in an increase in cost to PAV of carrying out its obligations under the Contract, PAV may, at its sole discretion, notify the Customer that it wishes to increase the Price by an amount not exceeding any such demonstrable cost. PAV may invoice the Customer for any additional monies that become payable in this way, within 30 days of demonstrating the increase in costs;

8.6.2 provided always that, the Payment Dates which occur or are due to occur after the Delivery Date shall not be varied or extended as a result of any amendment to the Contract Timetable pursuant to condition 8.6.1.

9. HANDOVER

9.1 On completion of the installation of the System, PAV and the Customer shall carry out the Handover of the System. PAV shall give the Customer at least 24 hours' notice of the proposed time for the Handover.

9.2 On the completion of the Handover, the Customer will sign a Milestone Certificate confirming that Handover of the System has been completed.

9.3 If within six weeks of completion of the Handover, the System fails in some material respect to operate in accordance with the Specification, the Customer shall, within 5 days of becoming aware of such failure, provide written notice to PAV to this effect, giving details of such failure(s). PAV shall remedy the defects and/or deficiencies within a reasonable time.

9.4 The Customer will sign a Milestone Certificate confirming that the System is Fully Commissioned on the later of:

9.4.1 at the end of the six week period following completion of the Handover; or

9.4.2 where the Customer has given any written notice under condition 9.3, at the end of a six week period following rectification of the defects by PAV.

10. ACCEPTANCE

10.1 Acceptance of the System shall be deemed to have occurred on whichever is the earliest of:

10.1.1 the signing by the Customer of a Milestone Certificate confirming that the System is Fully Commissioned;

10.1.2 the expiry of the later of the periods referred to in condition 9.4;

10.1.3 the use of the System by the Customer in the normal course of its business for a period of six weeks.

11. WARRANTIES

11.1 The System supplied to the Customer by PAV under the Contract shall:

11.1.1 conform to the Specification;

11.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by PAV;

- 11.1.3 comply with all applicable statutory and regulatory requirements.
- 11.2 PAV warrants that as far as it is able, PAV will pass on to the Customer the benefits of any Manufacturers' Warranties.
- 11.3 PAV shall not in any circumstances be liable for a breach of any warranty under the Contract unless:
 - 11.3.1 the Customer gives written notice of the defect to PAV within seven days of the time when the Customer discovers or ought to have discovered the defect; and
 - 11.3.2 after receiving the notice, PAV is given a reasonable opportunity of examining the System.
- 11.4 PAV shall not in any circumstances be liable for a breach of any warranty under the Contract if:
 - 11.4.1 the Customer makes any use of the System in respect of which it has given written notice under condition 11.3.1; or
 - 11.4.2 the defect arises because the Customer failed to follow PAV's oral or written instructions as to the use or maintenance of the System or (if there are none) good trade practice; or
 - 11.4.3 the Customer alters or repairs the System without the written consent of PAV;
 - 11.4.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 11.4.5 the System differs from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 11.5 Subject to condition 11.4 if the System does not comply with any warranty under the Contract, then PAV, at its option, shall be entitled to:
 - 11.5.1 request the Customer to enforce its rights under the Manufacturer's Warranties; or
 - 11.5.2 repair or replace the System; or
 - 11.5.3 repay the price of the System in full.

Once PAV complied with condition 11.5.1, 11.5.2 or 11.5.3 it shall have no further liability to the Customer in respect of the rejected System's failure to comply with any warranty under the Contract.

- 11.6 The terms of the Contract shall apply to any repaired or replacement System supplied by PAV.
- 11.7 PAV shall not in any circumstances be liable for any damage or defect to the System caused by improper use of the System or use outside its normal application.
- 11.8 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

12. TITLE AND RISK

- 12.1 Risk in the System shall pass to the Customer on Delivery. If Delivery is deemed to occur anywhere other than at the Site, the System will be stored at the sole risk of the Customer.
- 12.2 Title to the System shall not pass to the Customer until PAV has received payment in full (in cash or cleared funds) for:
 - 12.2.1 the System; and
 - 12.2.2 all other sums which are or which become due to PAV from the Customer under or in connection with the Contract.
- 12.3 Until title to the System has passed to the Customer, the Customer shall:
 - 12.3.1 hold the System on a fiduciary basis as PAV's bailee;
 - 12.3.2 store the System separately from all other equipment held by the Customer so that they remain readily identifiable as PAV's property;
 - 12.3.3 not remove, deface or obscure any identifying mark on or relating to the System; and
 - 12.3.4 maintain the System in satisfactory condition and keep it insured on PAV's behalf for their full price against all risks with an insurer that is reasonably acceptable to PAV. The Customer shall obtain an endorsement of PAV's interest in the System on its insurance policy, subject to the insurer being willing to make the endorsement. On request the Customer shall allow PAV to inspect the System and the insurance policy,

but the Customer may use the System in the ordinary course of its business on written agreement by PAV.
- 12.4 If before title to the System passes to the Customer the Customer becomes subject to any of the events in condition 17.1.4 to condition 17.1.12 then, without limiting any other right or remedy PAV may have, PAV may at any time require the Customer to deliver up the System

and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the System is stored in order to recover it.

13. PRICE & PAYMENT

- 13.1 The Price for the System shall be as set out in the Quotation. If as a result of variations to the Specification, the price for the System increases, PAV shall issue a Change Notice confirming the revised Price for the System. If the Customer has not objected in writing to the Change Notice within 5 days of PAV issuing the Change Notice, the Customer shall be deemed to have accepted the revised Price.
- 13.2 The Price is exclusive of amounts in respect of VAT.
- 13.3 PAV shall submit invoices for each instalment of the Price set out in the Quotation. The Customer shall make payment of each invoice by the due date stated in the Quotation.
- 13.4 If the Customer does not make any payment due to PAV under the Contract by the due date for payment, as set out in the Quotation, PAV may, in its discretion, delay the Contract Timetable and delay the commencement of the next Contract Milestone until such payment is made.
- 13.5 Payment shall be made to the bank account nominated in writing by PAV.
- 13.6 If a party fails to make any payment due to the other under the Contract by the due date for payment (**due date**), then, without limiting the other party's remedies under condition 17.1, the defaulting party shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This condition shall not apply to payments that the defaulting party disputes in good faith.

14. LIMITATION OF LIABILITY

- 14.1 This condition sets out the entire financial liability of the parties (including any liability for the acts or omissions of their respective employees, agents and subcontractors) to each other in respect of:
 - 14.1.1 any breach of the Contract however arising;
 - 14.1.2 any use made of the System by the Customer; and

- 14.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 14.2 Nothing in the Contract shall limit or exclude the liability of either party for:
 - 14.2.1 death or personal injury resulting from negligence; or
 - 14.2.2 fraud or fraudulent misrepresentation; or
 - 14.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - 14.2.4 breach of section 2 of the Consumer Protection Act 1987.
- 14.3 Without prejudice to condition 14.2, neither party shall under any circumstances whatever be liable to the other, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:
 - 14.3.1 loss of profit; or
 - 14.3.2 loss of goodwill; or
 - 14.3.3 loss of business; or
 - 14.3.4 loss of business opportunity; or
 - 14.3.5 loss of anticipated saving; or
 - 14.3.6 loss or corruption of data or information; or
 - 14.3.7 special, indirect or consequential damagesuffered by the other party that arises under or in connection with the Contract.
- 14.4 Without prejudice to condition 14.2 or condition 14.3, PAV's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to the Price.
- 14.5 Without prejudice to condition 14.2 or condition 14.3, the Customer's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited as follows:
 - 14.5.1 for non-payment of invoices for the System, to the amount unpaid, and any interest due on such amount pursuant to condition 13.6; or
 - 14.5.2 for any other type of liability, to the Price.

15. ASSIGNMENT AND SUB-CONTRACTING

PAV may assign or transfer or sub-contract any of its rights, benefits or obligations under the Contract without the prior written consent of the Customer.

16. CONFIDENTIALITY

16.1 Each party undertakes that it shall not at any time disclose to any person any confidential information disclosed to it by the other party concerning the business or affairs of the other party or of any member of its Group, including but not limited to information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers (**Confidential Information**), except as permitted by condition 16.2.

16.2 Each party may disclose the other party's Confidential Information:

16.2.1 to its employees, officers, agents, consultants or sub-contractors (**Representatives**) who need to know such information for the purposes of carrying out the party's obligations under the Contract, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this condition 16 as though they were a party to the Contract. The disclosing party shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this condition; and

16.2.2 as may be required by law, court order or any governmental or regulatory authority.

16.3 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in the Contract are granted to the other party or to be implied from the Contract. In particular, no licence is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other intellectual property right held, made, obtained or licensable by either party now or in the future.

17. TERMINATION

17.1 A party shall be entitled to terminate the Contract with immediate effect by giving written notice to the other party if:

17.1.1 the other party fails to pay any undisputed amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or

- 17.1.2 the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 days after receipt of notice in writing requiring it to do so; or
- 17.1.3 the other party commits a series of persistent minor breaches which when taken together amount to a material breach; or
- 17.1.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- 17.1.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- 17.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party; or
- 17.1.7 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- 17.1.8 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
- 17.1.9 a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- 17.1.10 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
- 17.1.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 17.1.4 to condition 17.1.10 (inclusive); or
- 17.1.12 the other party ceases, or threatens to cease, to carry on all or substantially the whole of its business; or

17.1.13 any Force Majeure Event prevents the other party from performing its obligations under the Contract for any continuous period of three months.

17.2 Termination of the Contract shall not prejudice any of the parties' rights and remedies which have accrued as at termination.

18. OBLIGATIONS ON TERMINATION

On termination of the Contract each party shall promptly:

18.1.1 return to the other party all equipment, materials and property belonging to the other party that the other party had supplied to it or a member of its Group in connection with the supply and purchase of the System under the Contract;

18.1.2 return to the other party all documents and materials (and any copies) containing the other party's Confidential Information;

18.1.3 erase all the other party's Confidential Information from its computer systems (to the extent possible); and

18.1.4 on request, certify in writing to the other party that it has complied with the requirements of this condition.

19. SURVIVAL OF OBLIGATIONS

19.1 On termination of the Contract the following conditions shall survive and continue in full force and effect:

19.1.1 condition 14 (Limitation of liability);

19.1.2 condition 16 (Confidentiality);

19.1.3 condition 18 (Obligations on termination); and

19.1.4 condition 27 (Governing law and jurisdiction).

20. FORCE MAJEURE

20.1 Neither party (or any person acting on its behalf) shall have any liability or responsibility for failure to fulfil any obligation under the Contract so long as and to the extent to which the fulfilment of such obligation is prevented, frustrated, hindered or delayed as a consequence of a Force Majeure Event.

20.2 A party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:

20.2.1 notify the other party of the nature and extent of such Force Majeure Event; and

20.2.2 use all reasonable endeavours to remove any such causes and resume performance under the Contract as soon as feasible.

20.3 For the purposes of this condition 20, a **Force Majeure Event** means an event beyond the control of a party (or any person acting on its behalf), which by its nature could not have been foreseen by such party (or such person), or, if it could have been foreseen, was unavoidable, and includes, without limitation, acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity or one or more acts of terrorism or failure of energy sources.

21. SEVERANCE

21.1 If any provision of the Contract (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

21.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

22. FURTHER ASSURANCE

Each party shall (at its own expense) promptly execute and deliver all such documents, and do all such things, or procure the execution and delivery of all documents and doing of all such things as are required to give full effect to the Contract and the transactions contemplated by it.

23. VARIATION AND WAIVER

23.1 Any variation of the Contract, other than pursuant to a Change Notice, must be in writing and signed by or on behalf of the parties.

23.2 Any waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.

23.3 No failure to exercise or delay in exercising any right or remedy provided under the Contract or by law constitutes a waiver of such right or remedy nor shall it prevent any future exercise or enforcement of such right or remedy.

- 23.4 No single or partial exercise of any right or remedy under the Contract shall prevent or restrict the further exercise of that or any other right or remedy.

24. NOTICES

Any notice required to be given pursuant to the Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the address of the party as set out in these conditions, or such other address as may be notified by one party to the other. A notice delivered by hand is deemed to have been received when delivered (or, if delivery is not in business hours, 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

25. ENTIRE AGREEMENT

- 25.1 Each party acknowledges that, in entering into the Contract and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty (**Representation**) of any person (whether a party to this agreement or not) other than as expressly set out in the Contract or those documents.
- 25.2 Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract.
- 25.3 Nothing in this condition shall limit or exclude any liability for fraud.

26. RIGHTS OF THIRD PARTIES

No term of the Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to the Contract, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

27. GOVERNING LAW AND JURISDICTION

- 27.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 27.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

28. DEFINITIONS & INTERPRETATION

28.1 The definitions and rules of interpretation in this condition apply in these conditions.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Change Notice: a notice issued by PAV pursuant to condition 6.4, 7.3 or 13.1.

Confidential Information: has the meaning given in condition 16.1.

Contract: the Customer's order and PAV's acceptance of it in accordance with condition 3.3.

Contract Timetable: the timetable for any or all of the supply and installation of the System as agreed between PAV and the Customer or as set out in any schedule of works agreed between PAV and the Customer or its employees, agents or third-party contractors, as varied by the parties in accordance with condition 6.

Contract Milestones: the milestones set out in the Quotation and/or the Contract Timetable for each element of the supply and installation of the System and for payment of the instalments of the Price.

Costs: all liabilities, costs, expenses, damages and losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses).

Customer: the person, firm or company who purchases System from PAV.

Delivery: completion of delivery of the System.

Delivery Date: the date specified for delivery of the System as set out in the Contract Timetable.

Delivery Location: the Site, or where the Customer has refused to accept delivery of the System at the Site by the Delivery Date, the location of the System on the Delivery Date.

Force Majeure Event: has the meaning given in condition 20.

Fully Commissioned: installed and having operated or deemed to have operated in accordance with the Specification for a period of six weeks.

Group: in relation to a company, that company, its subsidiaries, its holding companies and their subsidiaries.

Handover: PAV demonstrating the fully operational System to the Customer, providing basic instructions as to how to use the System and providing user manual(s) for the System.

holding company: has the meaning given in condition 28.6.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world and **Intellectual Property Right** means any one of the Intellectual Property Rights.

Manufacturers' Warranties: the warranties given by any third-party manufacturer in relation to any element of the System.

Milestone Certificate: means the certificate in the form required by PAV confirming that a Contract Milestone has been completed.

month: a calendar month.

Payment Dates: the dates for payment by the Customer as set out in the Quotation.

PAV: Perfect Audio Visual Limited, a company incorporated and registered in England and Wales with company number 07441919 whose registered office is at Ivy House Foundry, Hanley, Stoke on Trent, Staffordshire, ST1 3NR.

Price: the price for the System, as set out in the Proposal or any Change Notice.

Quotation: PAV's specification and quotation for the System.

Representatives: has the meaning given in condition 16.2.

Site: the location at which the System is to be installed and commissioned as specified in the Quotation.

Specification: the specification for the System as set out in the Quotation.

subsidiary: has the meaning given in condition 28.6.

System: the equipment to be supplied and installed by PAV to the Customer under the terms of the Contract as detailed in the Quotation and the Specification.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

year: a calendar year.

- 28.2 Condition headings shall not affect the interpretation of these terms.
- 28.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 28.4 References to PAV include any other company in PAV's group.
- 28.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 28.6 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 28.7 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 28.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 28.9 A reference to a statute, statutory provision or any subordinate legislation made under a statute is to such statute, provision or subordinate legislation as amended or re-enacted whether before or after the date of this agreement and, in the case of a statute, includes any subordinate legislation made under that statute from time to time.
- 28.10 A reference to **writing** or **written** includes faxes and e-mail.
- 28.11 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 28.12 Documents in **agreed form** are documents in the form agreed by the parties and initialled by them for identification.

- 28.13 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.
- 28.14 References to conditions are to the conditions of these conditions.
- 28.15 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.